

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

DEPARTMENT OF COMMUNITY
AFFAIRS,

Petitioner,

And

DEPARTMENT OF MILITARY AFFAIRS,

Intervenor

v.

DOAH Case No. 08-5493GM

CLAY COUNTY

Respondent,

FILED
2009 JUN 26 4:10:11p
ADMINISTRATIVE
HEARINGS

FINAL ORDER

This cause is before the Department of Community Affairs on an Order Closing File, a copy of which is appended hereto as Exhibit A, and on adoption of an ordinance repealing and rescinding Ordinance 2008-34, appended hereto as Exhibit B.

On August 26, 2008, Respondent Clay County adopted an amendment to its comprehensive plan by Ordinance No. 2008-34 (Amendment). The Department reviewed the Amendment, determined that Ordinance No. 2008-34 did not meet the criteria for compliance set forth in Section 163.3184(1)(b), Florida Statutes, and caused to be published a Notice of Intent to find the Amendment not "in compliance." The Department then instituted

this administrative proceeding against the County pursuant to Section 163.3184(10), Florida Statutes.

On June 9, 2009, by adopting Ordinance No. 2009-23, the County repealed and rescinded the not "in compliance" Ordinance No. 2008-34. By virtue of this rescission, the instant controversy has been rendered moot and this proceeding must be dismissed. See Department of Highway Safety & Motor Vehicles v. Heredia, 520 So. 2d 61 (Fla. 3d DCA 1988) (dismissing case on appeal as moot where suspension of driver's license was rescinded by the Department).

ORDER

WHEREFORE, it is ORDERED that the above-captioned proceeding is DISMISSED, and the Agency Clerk is directed to close the file.

DONE AND ORDERED this day in Tallahassee, Florida.



Shaw P. Stiller, General Counsel
DEPARTMENT OF COMMUNITY AFFAIRS
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

NOTICE OF RIGHTS

EACH PARTY IS HEREBY ADVISED OF ITS RIGHT TO SEEK JUDICIAL REVIEW OF THIS FINAL ORDER PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND FLORIDA RULES OF APPELLATE PROCEDURE 9.030(b)(1)©) AND 9.110.

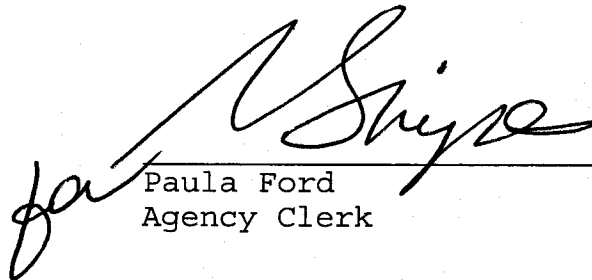
TO INITIATE AN APPEAL OF THIS ORDER, A NOTICE OF APPEAL MUST BE FILED WITH THE DEPARTMENT'S AGENCY CLERK, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100, WITHIN 30 DAYS OF THE DAY THIS ORDER IS FILED WITH THE AGENCY CLERK. THE NOTICE OF APPEAL MUST BE SUBSTANTIALLY IN THE FORM PRESCRIBED BY FLORIDA RULE OF APPELLATE PROCEDURE 9.900(a). A COPY OF THE NOTICE OF APPEAL MUST BE FILED WITH THE APPROPRIATE DISTRICT COURT OF APPEAL AND MUST BE ACCOMPANIED BY THE FILING FEE SPECIFIED IN SECTION 35.22(3), FLORIDA STATUTES.

YOU **WAIVE** YOUR RIGHT TO JUDICIAL REVIEW IF THE NOTICE OF APPEAL IS NOT TIMELY FILED WITH THE AGENCY CLERK AND THE APPROPRIATE DISTRICT COURT OF APPEAL.

MEDIATION UNDER SECTION 120.573, FLA. STAT., IS NOT AVAILABLE WITH RESPECT TO THE ISSUES RESOLVED BY THIS ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing has been filed with the undersigned Agency Clerk of the Department of Community Affairs, and that true and correct copies have been furnished by U.S. Mail to each of the persons listed below on this 25 day of June, 2009.


Paula Ford
Agency Clerk

By U.S. Mail

The Honorable Bram D. E. Canter
Administrative Law Judge
Division of Administrative Hearings
The Desoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

J. A. Spejenkowski, Esquire
Phillip Quaschnick, Esquire
Office of the Attorney General
PL 01- The Capitol
Tallahassee, Florida 32399-3000

Marcia Parker Tjoflat, Esquire
Pappas, Metcalf, Jenks & Miller, P.A.
245 Riverside Avenue, Suite 400
Jacksonville, Florida 32202

Mark H. Scruby, Esquire
Clay County Attorney
Post Office Box 1366
Green Cove Springs, Florida 32043-1366

FINAL ORDER No. DCA09-GM-242

Col. Elizabeth Masters, Esquire
Department of Military Affairs
Florida National Guard
PO Box 1008
St. Augustine, Florida 32085-1008

By Hand Delivery:

Lynette Norr, Esquire
Assistant General Counsel
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY, FLORIDA, REPEALING AND RESCINDING ORDINANCE NO. 2008-34 ADOPTED ON AUGUST 26, 2008, WHICH ORDINANCE NO. 2008-34 HAD AMENDED THE CLAY COUNTY 2015 COMPREHENSIVE PLAN (THE 'PLAN') INITIALLY ADOPTED PURSUANT TO THE REQUIREMENTS OF SECTION 163.3184, FLORIDA STATUTES, UNDER ORDINANCE NO. 92-03, AS SUBSEQUENTLY AMENDED, BY ADDRESSING LAND USE COMPATIBILITY WITH CAMP BLANDING (FUTURE LAND USE ELEMENT GOAL 2 AND ITS OBJECTIVES AND POLICIES); PROVIDING DIRECTIONS TO THE CLERK OF THE BOARD; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 23, 1992, the Board of County Commissioners of Clay County, Florida (the "Board"), adopted Ordinance No. 92-03 which adopted the Clay County 2001 Comprehensive Plan, which as subsequently amended is now referred to as the Clay County 2015 Comprehensive Plan (the "Plan"); and,

WHEREAS, Section 163.3187, Florida Statutes, provides for the amendment of an adopted comprehensive plan; and,

WHEREAS, Section 163.3184, Florida Statutes, outlines the procedure for the adoption of comprehensive plans or amendments thereto; and,

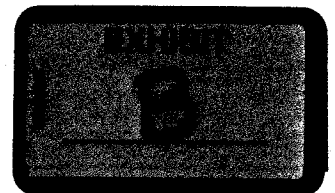
WHEREAS, Clay County Board of County Commissioners adopted an amendment to the Plan on August 26, 2008, in Ordinance No. 2008-34 (the "Amendment"); and,

WHEREAS, the Department of Community Affairs ("DCA") issued a Statement of Intent (the "SOP") and a Notice of Intent to find the Amendment adopted under Ordinance No. 2008-34 Not in Compliance on October 16, 2008; and,

WHEREAS, DCA filed a Petition with the Division of Administrative Hearings, Case No. 08-5493GM on November 4, 2008 (the "Petition"), seeking a determination, consistent with the SOI, that the Amendment adopted under Ordinance No. 2008-34 is Not in Compliance within the meaning of Chapter 163, Part II, Florida Statutes, and Rule 9J-5, Florida Administrative Code; and,

WHEREAS, as of the date of the adoption of this ordinance, the Petition remains pending; and,

WHEREAS, by virtue of the pendency of the Petition, the Amendment has not taken effect; and,



WHEREAS, the Board of County Commissioners desires hereby to provide for the repeal of Ordinance No. 2008-34 before the Amendment adopted thereunder becomes effective.

Be It Ordained by the Board of County Commissioners of Clay County:

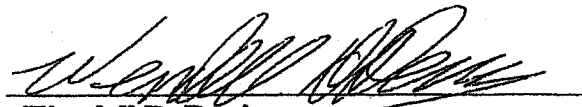
Section 1. Ordinance No. 2008-34 addressing Future Land Use Element Goal 2 and its Objectives and Policies is hereby repealed and rescinded.

Section 2. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

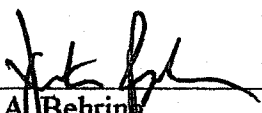
Section 3. The Clerk of the Board of County Commissioners is authorized and directed within 10 days of the date of adoption of this ordinance to send certified, complete and accurate copies of this ordinance by certified mail, return receipt requested, to the Florida Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida, 32399-2100 and the Northeast Florida Regional Planning Council, 9143 Phillips Highway, Suite 350, Jacksonville, Florida 32256, as specified in Section 163.3184(7), Florida Statutes.

DULY ADOPTED by the Board of County Commissioners of Clay County, Florida, this 9th day of June, 2009.

BOARD OF COUNTY COMMISSIONERS
CLAY COUNTY, FLORIDA


Wendell D. Davis
Its Chairman

ATTEST:


Fritz A. Behring
County Manager and Clerk of the
Board of County Commissioners

I hereby certify that this document consisting of 2 page[s] and further identified as [Ordinance 09-23] is a true and correct copy of the original maintained in the custody of Fritz Behring as County Manager and Ex-Officio Clerk of the Board of County Commissioners of Clay County, Florida, this 15 day of June, 2009.
By: Srenda Johns, Deputy Clerk
[Not Valid without the seal of the Board]